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EXPERIAN HOLDINGS, INC., and
EXPERIAN INFORMATION
SOLUTIONS, INC.

11
12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**
14 **SOUTHERN DIVISION**

15
16 **IN RE EXPERIAN DATA BREACH**
17 **LITIGATION**

No. SACV 15-1592 AG (DFMx)

Hon. Andrew J. Guilford

STIPULATED PROTECTIVE
ORDER

1 **1. PURPOSE AND LIMITS OF THIS ORDER**

2
3 Discovery in this action is likely to involve confidential, proprietary, or private
4 information requiring special protection from public disclosure and from use for any
5 purpose other than this litigation. Thus, the Court enters this Protective Order. This
6 Order does not confer blanket protections on all disclosures or responses to discovery,
7 and the protection it gives from public disclosure and use extends only to the specific
8 material entitled to confidential treatment under the applicable legal principles. This
9 Order does not automatically authorize the filing under seal of material designated under
10 this Order. Instead, the parties must comply with L.R. 79-5.1 if they seek to file anything
11 under seal. This Order does not govern the use at trial of material designated under this
12 Order.

13
14 **2. DESIGNATING PROTECTED MATERIAL**

15
16 **2.1 Over-Designation Prohibited.** Any party or non-party who designates
17 information or items for protection under this Order as “CONFIDENTIAL” or
18 “HIGHLY CONFIDENTIAL – ATTORNEY EYES ONLY” (a “designator”) must only
19 designate specific material that qualifies under the appropriate standards. To the extent
20 practicable, only those parts of documents, items, or oral or written communications that
21 require protection shall be designated. Designations with a higher confidentiality level
22 when a lower level would suffice are prohibited. Mass, indiscriminate, or routinized
23 designations are prohibited. Unjustified designations expose the designator to sanctions,
24 including the Court’s striking all confidentiality designations made by that designator.
25 Designation under this Order is allowed only if the designation is necessary to protect
26 material that, if disclosed to persons not authorized to view it, would cause competitive
27 or other recognized harm. Material may not be designated if it has been made public, or
28 if designation is otherwise unnecessary to protect a secrecy interest. If a designator

1 learns that information or items that it designated for protection do not qualify for
 2 protection at all or do not qualify for the level of protection initially asserted, that
 3 designator must promptly notify all parties that it is withdrawing the mistaken
 4 designation.

5
 6 **2.2 Manner and Timing of Designations.** Designation under this Order
 7 requires the designator to affix the applicable legend (“CONFIDENTIAL” or “HIGHLY
 8 CONFIDENTIAL – ATTORNEY EYES ONLY”) to each page that contains protected
 9 material. For statements made during depositions or proceedings that qualify for
 10 protection under this order, the designator shall specify all protected statements and the
 11 level of protection being asserted. It may make that designation during the deposition or
 12 proceeding, or may invoke, on the record or by written notice to all parties on or before
 13 the next business day, a right to make the designation within 28 days from receipt of the
 14 transcript for such proceeding or the rough transcript for the deposition.

15 **2.2.1** A party or non-party that makes original documents or materials
 16 available for inspection need not designate them for protection until after the
 17 inspecting party has identified which material it would like copied and produced.
 18 During the inspection and before the designation, all material shall be treated as
 19 HIGHLY CONFIDENTIAL – ATTORNEY EYES ONLY. After the inspecting
 20 party has identified the documents it wants copied and produced, the producing
 21 party must, within 28 days of such identification, designate the documents, or
 22 portions thereof, that qualify for protection under this Order.

23 **2.2.2** Parties shall give advance notice if they expect a deposition or other
 24 proceeding to include designated material so that the other parties can ensure that
 25 only authorized individuals are present at those proceedings when such material
 26 is disclosed or used. The use of a document as an exhibit at a deposition shall not
 27 in any way affect its designation. Transcripts containing designated material shall
 28 have a legend on the title page noting the presence of designated material, and the

1 title page shall be followed by a list of all pages (including line numbers as
 2 appropriate) that have been designated, and the level of protection being asserted.
 3 The designator shall inform the court reporter of these requirements. Prior to the
 4 expiration of the period for designation, all deposition and proceeding transcripts
 5 for which a party has provided notice of intent to designate shall be treated during
 6 that period as if it had been designated **HIGHLY CONFIDENTIAL –**
 7 **ATTORNEY EYES ONLY** unless otherwise agreed. After the sooner of
 8 designation or the expiration of the period for designation, the transcript shall be
 9 treated only as actually designated.

10 **2.3 Inadvertent Failures to Designate.** An inadvertent failure to designate
 11 does not, standing alone, waive protection under this Order. Upon timely assertion or
 12 correction of a designation, all recipients must make reasonable efforts to ensure that the
 13 material is treated according to this Order.

14 15 **3. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

16 All challenges to confidentiality designations shall proceed under L.R. 37-1
 17 through L.R. 37-4.

18 19 **4. ACCESS TO DESIGNATED MATERIAL**

20 **4.1 Basic Principles.** A receiving party may use designated material only for
 21 this litigation. Designated material may be disclosed only to the categories of persons
 22 and under the conditions described in this Order.

23 **4.2 Disclosure of CONFIDENTIAL Material Without Further Approval.**
 24 Unless otherwise ordered by the Court or permitted in writing by the designator, a
 25 receiving party may disclose any material designated CONFIDENTIAL only to:

26 **4.2.1** The receiving party's outside counsel of record in this action and
 27 employees of outside counsel of record to whom disclosure is reasonably
 28 necessary;

1 **4.2.2** The officers, directors, and employees of the receiving party to
2 whom disclosure is reasonably necessary, and who have signed the Agreement to
3 Be Bound (Exhibit A);

4 **4.2.3** Experts retained by the receiving party's outside counsel of record to
5 whom disclosure is reasonably necessary, and who have signed the Agreement to
6 Be Bound (Exhibit A);

7 **4.2.4** The Court and its personnel;

8 **4.2.5** Outside court reporters and their staff, professional jury or trial
9 consultants, and professional vendors to whom disclosure is reasonably
10 necessary, and who have signed the Agreement to Be Bound (Exhibit A);

11 **4.2.6** During their depositions, witnesses in the action to whom disclosure
12 is reasonably necessary and who have signed the Agreement to Be Bound (Exhibit
13 A); and

14 **4.2.7** The author or recipient of a document containing the material, or a
15 custodian or other person who otherwise possessed or knew the information.

16 **4.3 Disclosure of HIGHLY CONFIDENTIAL – ATTORNEY EYES**
17 **ONLY Material Without Further Approval.** Unless permitted in writing by the
18 designator, a receiving party may disclose material designated HIGHLY
19 CONFIDENTIAL – ATTORNEY EYES ONLY without further approval only to:

20 **4.3.1** The receiving party's outside counsel of record in this action and
21 employees of outside counsel of record to whom it is reasonably necessary to
22 disclose the information;

23 **4.3.2** The Court and its personnel;

24 **4.3.3** Outside court reporters and their staff, professional jury or trial
25 consultants, and professional vendors to whom disclosure is reasonably
26 necessary, and who have signed the Agreement to Be Bound (Exhibit A);

1 **4.3.4** Experts retained by the receiving party's outside counsel of record to
 2 whom disclosure is reasonably necessary, and who have signed the Agreement to
 3 Be Bound (Exhibit A); and

4 **4.3.5** The author or recipient of a document containing the material, or a
 5 custodian or other person who otherwise possessed or knew the information.

6 **5. PROSECUTION BAR**

8 Absent written consent from the designator, any individual who receives access
 9 to **HIGHLY CONFIDENTIAL – ATTORNEY EYES ONLY** information shall not be
 10 involved in the prosecution of patents or patent applications concerning the field of the
 11 invention of such information for the receiving party or its acquirer, successor,
 12 predecessor, or other affiliate during the pendency of this action and for three years after
 13 its conclusion, including any appeals. "Prosecution" means drafting, amending, advising
 14 on the content of, or otherwise affecting the scope or content of patent claims or
 15 specifications. These prohibitions shall not preclude counsel from participating in
 16 reexamination or *inter partes* review proceedings to challenge or defend the validity of
 17 any patent, but counsel may not participate in the drafting of amended claims in any
 18 such proceedings.

20 **6. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED** 21 **IN OTHER LITIGATION**

22 **6.1 Subpoenas and Court Orders.** This Order in no way excuses non-
 23 compliance with a lawful subpoena or court order. The purpose of the duties described
 24 in this section is to alert the interested parties to the existence of this Order and to give
 25 the designator an opportunity to protect its confidentiality interests in the court where
 26 the subpoena or order issued.

27 **6.2 Notification Requirement.** If a party is served with a subpoena or a court
 28 order issued in other litigation that compels disclosure of any information or items

designated in this action as CONFIDENTIAL or HIGHLY CONFIDENTIAL – ATTORNEY EYES ONLY, that party must:

6.2.1 Promptly notify the designator in writing. Such notification shall include a copy of the subpoena or court order;

6.2.2 Promptly notify in writing the party who caused the subpoena or order to issue in the other litigation that some or all of the material covered by the subpoena or order is subject to this Order. Such notification shall include a copy of this Order; and

6.2.3 Cooperate with all reasonable procedures sought by the designator whose material may be affected.

6.3 Wait For Resolution of Protective Order. If the designator timely seeks a protective order, the party served with the subpoena or court order shall not produce any information designated in this action as CONFIDENTIAL or HIGHLY CONFIDENTIAL – ATTORNEY EYES ONLY before a determination by the court where the subpoena or order issued, unless the party has obtained the designator's permission. The designator shall bear the burden and expense of seeking protection of its confidential material in that court.

7. UNAUTHORIZED DISCLOSURE OF DESIGNATED MATERIAL

If a receiving party learns that, by inadvertence or otherwise, it has disclosed designated material to any person or in any circumstance not authorized under this Order, it must immediately (1) notify in writing the designator of the unauthorized disclosures, (2) use its best efforts to retrieve all unauthorized copies of the designated material, (3) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order, and (4) use reasonable efforts to have such person or persons execute the Agreement to Be Bound (Exhibit A).

1 **8. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
 2 **PROTECTED MATERIAL**

3 When a producing party gives notice that certain inadvertently produced material
 4 is subject to a claim of privilege or other protection, the obligations of the receiving
 5 parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision
 6 is not intended to modify whatever procedure may be established in an e-discovery order
 7 that provides for production without prior privilege review pursuant to Federal Rule of
 8 Evidence 502(d) and (e).

9
 10 **9. FILING UNDER SEAL**

11 Without written permission from the designator or a Court order, a party may not
 12 file in the public record in this action any designated material. A party seeking to file
 13 under seal any designated material must comply with L.R. 79-5.1. Filings may be made
 14 under seal only pursuant to a court order authorizing the sealing of the specific material
 15 at issue. The fact that a document has been designated under this Order is insufficient to
 16 justify filing under seal. Instead, parties must explain the basis for confidentiality of each
 17 document sought to be filed under seal. Because a party other than the designator will
 18 often be seeking to file designated material, cooperation between the parties in
 19 preparing, and in reducing the number and extent of, requests for under seal filing is
 20 essential. If a receiving party's request to file designated material under seal pursuant to
 21 L.R. 79-5.1 is denied by the Court, then the receiving party may file the material in the
 22 public record unless (1) the designator seeks reconsideration within 7 days of the denial,
 23 or (2) as otherwise instructed by the Court.


24
 25 **10. FINAL DISPOSITION**

26 Within 60 days after the final disposition of this action, each party shall return all
 27 designated material to the designator or destroy such material, including all copies,
 28 abstracts, compilations, summaries, and any other format reproducing or capturing any

1 designated material. The receiving party must submit a written certification to the
2 designator by the 60-day deadline that (1) identifies (by category, where appropriate) all
3 the designated material that was returned or destroyed, and (2) affirms that the receiving
4 party has not retained any copies, abstracts, compilations, summaries, or any other
5 format reproducing or capturing any of the designated material. This provision shall not
6 prevent counsel from retaining an archival copy of all pleadings, motion papers, trial,
7 deposition, and hearing transcripts, legal memoranda, correspondence, deposition and
8 trial exhibits, expert reports, attorney work product, and consultant and expert work
9 product, even if such materials contain designated material. Any such archival copies
10 remain subject to this Order.

11
12 IT IS SO ORDERED.

13
14 Dated: April 13, 2016



Honorable Andrew J. Guilford
United States District Court Judge

15
16
17 APPROVED AS TO FORM:

18
19 Dated: April 11, 2016

JONES DAY

20 By: /s/ Richard Grabowski

21 Counsel for Defendant
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25
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27
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1 Dated: April 11, 2016

ADHOOT & WOLFSON APC

2
3 By: /s/ Tina Wolfson

4 ROBINSON CALCAGNIE
5 ROBINSON SHAPIRO DAVIS, INC.

6
7 By: /s/ Daniel Robinson

8 Interim Co-Lead Counsel for Plaintiffs
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ATTESTATION OF FILER

Pursuant to Local Rule 5-4.3.4, the undersigned filer hereby attests that all signatories listed, and on whose behalf the filing is submitted, concur in the filing's content and have authorized the filing.

Dated: April 11, 2016

/s/ Tina Wolfson

EXHIBIT A

AGREEMENT TO BE BOUND

I, _____ [print or type full name], of _____
[print or type full address], declare under penalty of perjury that I have read in its entirety
and understand the Protective Order that was issued by the United States District Court
for the Central District of California on _____ [date] in the case of *In Re*
Experian Data Breach Litigation, No. SACV 15-1592 AG (DFMx). I agree to comply
with and to be bound by all the terms of this Protective Order, and I understand and
acknowledge that failure to so comply could expose me to sanctions and punishment for
contempt. I solemnly promise that I will not disclose in any manner any information or
item that is subject to this Protective Order to any person or entity except in strict
compliance with this Order.

I further agree to submit to the jurisdiction of the United States District Court for
the Central District of California for the purpose of enforcing this Order, even if such
enforcement proceedings occur after termination of this action.

I hereby appoint _____ [print or type full name] of
_____ [print or type full address and
telephone number] as my California agent for service of process in connection with this
action or any proceedings related to enforcement of this Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

[printed name]

Signature: _____

[signature]